

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

No. CR 10-2653 JB

DERRICK IVAN JIM,

Defendant.

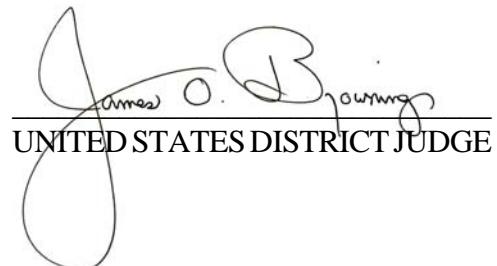
MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court on the United States' Motion in Limine to Introduce Excited Utterance of Sexual Assault Victim, filed December 20, 2011 (Doc. 70)(“Motion on Excited Utterance”). The Court held a hearing on December 30, 2011. The primary issue is whether the Court should allow Plaintiff United States of America to introduce Jane Doe’s statement to her friend under rule 803(2) of the Federal Rules of Evidence. Defendant Derrick Ivan Jim filed no response to this motion. At the hearing, Jim agreed that he did not object to the United States’ introduction of Jane Doe’s statement through witnesses Katrina Morgan, Carla Kayonne, Jonah Mason, or Jane Doe, as long as they were available for cross-examination, but he did not want the statement to come in through Criminal Investigator Jefferson Joe. See Transcript of Hearing at 28:3-17 (December 30, 2011)(Court, Chacon, Baker)(“Tr.”).¹ The United States represented that it did not intend to introduce Jane Doe’s statement through Joe. See Tr. at 28:7-11 (Court, Baker). Accordingly, the Court will grant the Motion on Excited Utterance.

IT IS ORDERED that the United States’ Motion in Limine to Introduce Excited Utterance

¹The Court’s citations to the transcript of the hearing refer to the court reporter’s original, unedited version. Any final transcript may contain slightly different page and/or line numbers.

of Sexual Assault Victim, filed December 20, 2011 (Doc. 70), is granted. The Court will permit Plaintiff United States of America to introduce Jane Doe's statement, that Defendant Derrick Ivan Jim raped her, through witnesses Katrina Morgan, Carla Kayonne, Jonah Mason, or Jane Doe, as long as they are available for cross-examination. The Court will not allow the United States to introduce these statements through Criminal Investigator Jefferson Joe.



The image shows a handwritten signature in black ink. The signature consists of stylized initials 'J' and 'O' followed by 'Bowne'. Below the signature, the words 'UNITED STATES DISTRICT JUDGE' are printed in a standard font.

Counsel:

Kenneth J. Gonzales
United States Attorney
Jack Burkhead
Mark T. Baker
Assistant United States Attorneys
United States Attorney's Office
Albuquerque, New Mexico

Attorneys for the Plaintiff

Lawrence E. Chacon
Albuquerque, New Mexico

Attorney for the Defendant